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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Indonesia: Lack of justice and reparations strengthens impunity and encourages recurring violations

1. The Asian Legal Resource Center (ALRC) wishes to draw the attention of the UN Human Rights Council to the lack of justice and reparations for human rights abuse in Indonesia, which leads to the recurrence of such abuse. After political reform in 1998, the Government of Indonesia has adopted several key international human rights instruments, including the International Covenant on Civil and Political Rights, and the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Indonesia has also enacted Law No. 26 of 2000 on the Human Rights Court, and the Government Regulations (PP) No. 44 of 2008 on the Compensation, Restitution and Aid for Victims and Witnesses.

2. Nonetheless, justice for victims of gross human rights violations and their families remains elusive. None of the enacted legislation or signed conventions has resulted in serious investigations and prosecutions of those responsible, or in adequate compensation and redress for the victims. One key failing is the Attorney General's refusal to investigate past abuses as recommended by the National Human Rights Commission.

3. Meanwhile, in 2015, the local parliament of Aceh Province promulgated a local law on truth and reconciliation. The local Truth and Reconciliation Commission (TRC) in Aceh, part of the 2005 peace accord between the Aceh Free Movement (GAM) and the Government of Indonesia, deals with the military operation that occurred between 1989 and 1998, and the military emergency of 2003. Unfortunately, the TRC is not supported by the central government, since the minister of interior is reluctant to approve the final TRC Bill. The 2005 peace accord also mandated the establishment of a local ad hoc human rights court to prosecute the responsible persons, which has yet to be done.

4. Unlike in Aceh, no TRC has been established in Papua and West Papua province, even though the law on special autonomy for Papua requires the same. In fact, the Government is prioritizing development and investment rather than addressing human rights violations.

5. At the national level, a drafting committee has been set up to begin discussing the National Truth and Reconciliation Commission Bill in Parliament. President Joko Widodo has meanwhile initiated a shortcut by establishing a reconciliation task force, subsequently named the Truth Commission. The Commission aims to solve past human rights abuses under Soeharto's era, between 1966 and 1998, and is controversial for several reasons. Firstly, its mission remains unclear and has never been discussed publicly or even with victims of violations. Secondly, it is meant to replace the human rights court, which has been in existence for the past 15 years, since 2000. Lastly, the Government has decided that the Intelligence Agency, military and police should be part of the commission; given their involvement in past human rights abuses, their existence in the Commission can only result in further trauma of victims.

6. It is tragic that the circumstances of human rights abuse victims in Indonesia are totally different to that of the alleged perpetrators. The perpetrators have never been brought to court and are enjoying transitional democracy by establishing political parties and running for elections. Retired Lieutenant General Prabowo Subianto, for instance, a former Commander of Special Armed Forces (Danjen Kopassus) and also a Former Commander of Army Strategic Reserve Command, established the Great Indonesia Movement Party (Gerindra), which in the legislative elections, placed third out of 12 political parties. In 2009, Prabowo ran as a vice presidential candidate, and in 2014 he ran as a presidential candidate.

7. Meanwhile, former military Commander General Wiranto, who, the National Commission on Human Rights has alleged, is someone involved in the case of student shootings in Trisakti and Semanggi, as well as in the May 1998 riots, has also established a political party. His People's Conscience Party (Hanura) is now part of the governing coalition led by the ruling party, the Indonesian Democratic Party of Struggle (PDIP). Wiranto remains untouchable, with close relations to President Joko Widodo.

8. The existence of political parties established by the perpetrators has resulted in difficulties in examining the alleged perpetrators. Wiranto's party in particular has been instrumental in blocking any policy in Parliament aiming to establish an ad hoc human rights court to prosecute past human rights abuses.

9. Aside from its inability to address past human rights violations, the Government of Indonesia is unwilling to prevent the recurrence of such violations. Papua has seen gross human rights violations recently, with police and military attacking villagers in Paniai Regency. To commemorate the international day against torture, the Commission for Disappearances and Victims of Violence (KontraS), a prominent human rights NGO based in Jakarta, along with the ALRC's sister organisation the Asian Human Rights Commission, launched a report documenting 86 cases of torture that occurred in Indonesia between July 2014 and July 2015. The perpetrators who conduct torture are police officers, military personnel, and prison guards, with the police being the instition found to be conducting the most torture.

10. Under current President Joko Widodo's administration, the recurrence of human rights violations have also occurred in the form of fabrication of charges. Criminal charges have been brought against Mr. Novel Baswedan, senior investigator of the Anti-Corruption Body (KPK), Mr. Abraham Samad, Chairperson of KPK, and Mr. Bambang Widjojanto, KPK Commissioner. They have been charged and named as suspects in minor cases, immediately after Police Commissaries General Budi Gunawan was publicly named as a graft suspect. They have had to resigned from the KPK, as required by law.

11. The ALRC recommends that the Government should take all necessary measures to ensure that past human rights violations are redressed. To this end, the Government should:

a) Prioritize the establishment of an ad hoc human rights court to try these violations, as well as a complementary body such as the Truth and Reconciliation Commission;

b) Provide remedies for victims and family members of human rights violations, and ensure non recurrence of these abuses;

c) Support the establishment of the local TRC in Aceh Province, and immediately initiate the establishment of a local TRC in Papua. Moreover, the Government should also establish a local human rights court to prosecute persons who committed crimes in Aceh and Papua during the military operations.